

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

GAMALIER RIVERA,)	Case No. 23 C 01743
)	
<i>Plaintiff,</i>)	Hon. Judge Edmond E. Chang
)	District Judge
<i>v.</i>)	
REYNALDO GUEVARA, <i>et al.</i> ,)	Hon. Judge Heather McShain
)	Magistrate Judge
<i>Defendants.</i>)	
)	JURY TRIAL DEMANDED
)	
)	

JOINT STATUS REPORT

The parties, by their respective undersigned counsel, and pursuant to the Court's June 28, 2024, Order (Dkt. 119), respectfully submit the following joint status report:

I. Discovery

The current non-*Monell* fact discovery deadline is August 30, 2024. Dkt. 116.

Plaintiff has taken all defendant depositions. Plaintiff has also taken the depositions of third party officers Kenneth Berris (4/15), Barbara Healy (5/1), John Dolan (5/16), and R. Gniot (5/20). Plaintiff anticipates taking several more third party depositions noted on the Deposition Scheduling Report, *see* Dkt. 101.

Plaintiff Gamalier Rivera's deposition has been scheduled for September 26, 2024. Defendants have not proposed new dates for depositions that they postponed on April 26, 2024, citing a need for further discovery. *See* Dkt. 118.

A. Ongoing Discovery Issues

Rule 37.2 Conferral: On June 10, 2024, Counsel for the City and Plaintiff conferred about deficiencies in the City's discovery responses. On August 9, the City made a supplemental

production of some of the materials discussed during the Rule 37.2 conference, and the City anticipates making a supplemental production the week of August 26, 2024.

On July 23, 2024, Plaintiff sent a letter to the City explaining his discovery of a parallel investigative file for the Ramos homicide investigation, which was produced by the City as part of *Monell* discovery in an earlier-filed Guevara case, *Solache/Reyes*. That investigative file is both longer and materially different from the investigative file the City produced here, and includes documents never produced in this litigation, despite their relevance to the case and their responsiveness to several of Plaintiff's discovery requests. The same issue has also been identified and raised in a number of the other currently pending cases involving Defendant Guevara. The same lawyers for Defendants are involved in those other cases. Plaintiff has been conferring with the City about this issue across the Guevara cases, including as recently as this week. The issue is being presided over most acutely by Judge Rowland in *Maysonet v. City of Chicago*, and Plaintiff is awaiting further information the City has committed to providing, which his expected shortly, so that appropriate next steps can be determined. Plaintiff does not agree to any delays in the fact discovery schedule (beyond what is agreed below) based on deficiencies in the prior production.

The City disagrees that the issues presented in this case regarding the investigative file and the issues presented in the *Maysonet* case regarding the investigative file are the same. Nevertheless, the City agrees that it is investigating the circumstances here and is conferring with Plaintiff's counsel about the production.

On August 22, 2024, the City and members of Plaintiff's legal team discussed ESI issues across multiple pending Guevara-related cases to come up with a global solution to Plaintiff's request for ESI discovery. Those conversations are ongoing.

Additionally, there are a number of outstanding subpoena issues. Namely, Defendants remain in contact with the Cook County State's Attorney's Office regarding their subpoena response. The CCSAO recently requested additional time to reconsider their redactions to avoid motion practice. Defendants are also in contact with, at least: the Illinois Department of Corrections regarding issues related to phone call logs, the Bureau of Prisons regarding a Touhy request for information, and the Clerk of the Circuit Court of Cook County for responsive records. Defendants also remain steadfast in their efforts to locate, serve, and depose various witnesses related to the underlying incident, including corresponding with Plaintiff regarding the witnesses he was granted priority in questioning: DeJesus and Gonzalez. Dkt. 80. Defendants will raise these issues with the Court if and when they are ripe for intervention.

B. Request for Fact Discovery Extension

Defendants propose a 90-day extension to the non-*Monell* fact discovery deadline, moving the August 30, deadline to November 28, 2024.

Plaintiff's position is as follows: Plaintiff is amenable to a 90-day extension of the deadline for ALL fact discovery, including *Monell*. The Court previously ruled that discovery would be phased, and indeed for a year the parties have been conducting the non-*Monell* fact discovery phase. To the extent there is additional non-*Monell* discovery that needs to be completed over the next 90 days, there is no reason the *Monell* discovery phase cannot proceed in parallel. Especially because Plaintiff has already informed Defendants that he will be relying on the same *Monell* evidence—primarily, CR files and homicide files—that the City previously produced in Guevara cases filed more than three years ago. There is no new *Monell* discovery that Plaintiff intends to conduct in this matter. Plaintiff has also already communicated to Defendants that he will offer the same *Monell* expert opinions, based on that same evidence. And the City (represented by the same

lawyers) has already analyzed the same *Monell* evidence, and issued rebuttal expert opinions to all of the opinions Plaintiff will be offering in this case. Put simply, there is no *Monell* discovery to be conducted. To the extent Defendants now claim that there is new *Monell* discovery they intend to conduct in this case, despite years of discovery in those earlier cases, they can do so over the next 90 days, in parallel with the completion of fact discovery.

Defendants' position is as follows:

If Plaintiff is representing that he intends to pursue no new, or additional *Monell fact* discovery, including written discovery, document production, or oral discovery, then the City does not object to completing *Monell* fact discovery during the same time frame. But the City reserves the right to conduct its own *Monell* fact discovery during this time frame.

II. Settlement

If and when the City decides it is willing to participate in meaningful efforts to resolve this matter, Plaintiff remains willing to engage in such efforts. The City responded to Plaintiff's initial demand and indicated that after evaluation, given the current state of litigation and discovery, it was too early to engage in settlement negotiations and that a settlement conference would not be fruitful at this time.

If Defendants are interested in discussing settlement, Plaintiff will send an updated demand that reflects the additional passage of time, and the expenditure of time and money.

Dated: August 23, 2024

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Respectfully Submitted,

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